

2009-77993

2009-77993

DEC - 8 2009

No.

Time:

Harris County, Texas

By

IN THE DISTRICT COURT

Deputy

HARRIS COUNTY, TEXAS

ROSEMARY GRIFFIN

v.

TEXAS DEPARTMENT OF STATE HEALTH
SYSTEM

189th JUDICIAL DISTRICT

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF THE COURT:

Rosemary Griffin, plaintiff, files this original petition complaining of Texas Department of State Health System, defendant, and for cause of action shows the Court the following:

1. Discovery is intended to be conducted under Level 2 of Rule 190.1, Texas Rules of Civil Procedure.
2. Plaintiff is an individual residing in Houston, Texas.
3. Defendant, Texas Department of State Health System, operates its principal place of business in Harris County, Texas. It may be served with citation by serving its registered agent. At all times relevant hereto, defendant had in excess of fifteen employees and was plaintiff's employer. At all times relevant hereto, defendant's principal place of business was located in Harris County, Texas. Plaintiff and defendant entered into verbal and written agreements concerning her employment with defendant, which were entered into in Harris County, Texas.
4. Venue is proper in Harris County, Texas, because an agreement concerning employment between plaintiff and defendant was entered into in that county and the actions by defendant of which plaintiff complains occurred in that county.
5. This court has jurisdiction under Texas Labor Code Ann.

**RETURNED DUE TO INSUFFICIENT FEES
NOT PAID AT TIME OF FILING**

Section 21.001 et seq., and under Title VII of the Civil Rights Act of 1964, as amended. All administrative remedies have been exhausted, including the timely filing of charges of discrimination with the Texas Commission on Civil Rights and the Equal Employment Opportunity Commission.

6. At all times during her employment with defendant, plaintiff was a good, competent, dependable and loyal employee. Nevertheless, she was repeatedly passed over for existing jobs or promotions and consequently replaced by a person or persons outside her protected category having lesser qualifications. Plaintiff's gender, female and/or her age, over 40, were a determining reason for the action of defendant in failing to promote plaintiff.

7. At or prior to the time her employer failed to promote her, plaintiff became aware of widespread practices of discriminating against persons within her protected categories and favoring employees outside her protected categories with more desirable work assignments and working conditions. Due to defendant's pattern, practice, and policy of discrimination, plaintiff was subjected to unfair terms, conditions, and privileges of employment because of her gender and/or her age.

8. The unlawful employment practices engaged in by defendant and referred to above include, but are not limited to, the following:

a. Plaintiff was excluded from job advancements, openings, and promotions on the basis of her gender and/or her age, in violation of Title VII of the Civil Rights Act of 1964, and the Age Discrimination in Employment Act.

- b. Plaintiff was retaliated against after complaining of the failure to promote her on account of her gender and/or her age.
- c. Defendant tolerated an intimidating, hostile and offensive working environment that unreasonably interfered with plaintiff's work performance and negatively affected her employment opportunities, in violation of the antidiscrimination provisions of Title VII of the Civil Rights Act, particularly those provisions proscribing discrimination on account of plaintiff's gender, and the antidiscrimination provisions of the Age Discrimination in Employment Act.

9. The discrimination and retaliation caused plaintiff extreme emotional distress. The above described treatment by defendant resulted in feelings of wounded pride, shame, despair and utter devastation, all of which produced severe mental anguish in her.

10. Defendant's action with respect to failure to promote plaintiff to a more highly compensated position with it was in violation of 42 U.S.C. Sec. 1981, and specifically that portion of the statute according her the same right in every State and Territory to make and enforce contracts, as is enjoyed by white citizens.

11. As a result of defendant's conduct, plaintiff has suffered damages, including mental anguish in the past, which is reasonably expected to extend into the future and damages for loss of earnings and earning capacity.

12. The wrong done by defendant was the kind typified by willfulness, wantonness, and malice for which the law allows the imposition of exemplary damages. Defendant's conduct was intentional or with conscious indifference to the rights of plaintiff and without justification or excuse. Plaintiff, therefore, seeks exemplary damages.

13. Plaintiff has been required to retain counsel to prosecute her claims and she seeks reasonable attorney's fees in this matter.

PRAYER

Wherefore, plaintiff requests that defendant be cited to appear and answer and that on final trial she have the following:

1. Judgment against defendant for damages in an amount within the jurisdictional limits of the court, and punitive damages in an amount within the jurisdictional limits of the court.
2. An award of attorney fees for prosecuting her claims against defendant.
3. Interest prior to judgment from date due until date of judgment at the maximum rate prescribed by law.
4. Her costs in the matter expended.
5. Interest after judgment at the maximum lawful rate on all the above sums from date of judgment until paid.
6. Such other and further relief to which she may be justly entitled.

Plaintiff demands a trial by jury.

Respectfully submitted,

Law Office of Woodrow
Epperson


Woodrow Epperson
10565 Katy Freeway
Suite 250
Houston, Texas 77024
(713) 973-6303
FAX (713) 973-1882
State Bar No. 06637000

Attorney for
Rosemary Griffin



I, Loren Jackson, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date
Witness my official hand and seal of office
this _____

Certified Document Number: _____

LOREN JACKSON, DISTRICT CLERK
HARRIS COUNTY, TEXAS

In accordance with Texas Government Code 406.013 electronically transmitted authenticated documents are valid. If there is a question regarding the validity of this document and or seal please e-mail support@hcdistrictclerk.com

2009-77993
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Cause No. <u>ROSEMARY GRIFFIN</u>		IN THE DISTRICT COURT OF HARRIS COUNTY, TEXAS																																													
TEXAS DEPT OF STATE HEALTH SYSTEM Plaintiff		189 JUDICIAL DISTRICT																																													
Defendant																																															
CIVIL CASE INFORMATION SHEET																																															
<p>This form must be completed and filed with every original petition, and a copy attached to every original petition served. The information should be the best available at the time of filing, understanding that such information may change before trial. <u>This information does not constitute a discovery request, response, or supplementation, and is not admissible at trial.</u></p>																																															
<p>Service must be obtained promptly. Notice is hereby given that, per Harris County Local Rule 3.6, any case in which no answer has been filed or default judgment signed FOUR (4) MONTHS from filing will be eligible for DISMISSAL FOR WANT OF PROSECUTION.</p>																																															
FILED Loren Jackson District Clerk																																															
Type of action:	<input type="checkbox"/> Commercial	<input type="checkbox"/> Personal Injury	<input type="checkbox"/> Death																																												
DEC - 8 2009																																															
<p>Check all claims pled:</p> <table> <tbody> <tr> <td><input type="checkbox"/> Account due</td> <td><input type="checkbox"/> Defamation</td> <td><input type="checkbox"/> Fraud</td> <td><input type="checkbox"/> Products liability</td> </tr> <tr> <td><input type="checkbox"/> Admiralty</td> <td><input type="checkbox"/> Disbarment</td> <td><input type="checkbox"/> Garnishment</td> <td><input type="checkbox"/> Post judgment</td> </tr> <tr> <td><input type="checkbox"/> Assault</td> <td><input checked="" type="checkbox"/> Discrimination</td> <td><input type="checkbox"/> Injunction/TRO</td> <td><input type="checkbox"/> Railroad</td> </tr> <tr> <td><input type="checkbox"/> Asbestosis</td> <td><input type="checkbox"/> Dram shop</td> <td><input type="checkbox"/> Insurance bad faith</td> <td><input type="checkbox"/> Real estate</td> </tr> <tr> <td><input type="checkbox"/> Auto</td> <td><input type="checkbox"/> DTPA</td> <td><input type="checkbox"/> Malicious prosecution</td> <td><input type="checkbox"/> Securities fraud</td> </tr> <tr> <td><input type="checkbox"/> Bill of review</td> <td><input type="checkbox"/> Employment discharge</td> <td><input type="checkbox"/> Malpractice/Legal</td> <td><input type="checkbox"/> Sequestration</td> </tr> <tr> <td><input type="checkbox"/> Conspiracy</td> <td><input type="checkbox"/> Expunction</td> <td><input type="checkbox"/> Malpractice/Medical</td> <td><input type="checkbox"/> Silicone implant</td> </tr> <tr> <td><input type="checkbox"/> Contract</td> <td><input type="checkbox"/> False imprisonment</td> <td><input type="checkbox"/> Name change</td> <td><input type="checkbox"/> Tortious interference</td> </tr> <tr> <td><input type="checkbox"/> Deed restriction</td> <td><input type="checkbox"/> Foreclosure</td> <td><input type="checkbox"/> Note</td> <td><input type="checkbox"/> Trespass</td> </tr> <tr> <td><input type="checkbox"/> Declaratory judgment</td> <td><input type="checkbox"/> Forfeiture</td> <td><input type="checkbox"/> Premises liability</td> <td><input type="checkbox"/> Workers compensation</td> </tr> <tr> <td colspan="4" style="text-align: center;"><input type="checkbox"/> Other _____</td> </tr> </tbody> </table>				<input type="checkbox"/> Account due	<input type="checkbox"/> Defamation	<input type="checkbox"/> Fraud	<input type="checkbox"/> Products liability	<input type="checkbox"/> Admiralty	<input type="checkbox"/> Disbarment	<input type="checkbox"/> Garnishment	<input type="checkbox"/> Post judgment	<input type="checkbox"/> Assault	<input checked="" type="checkbox"/> Discrimination	<input type="checkbox"/> Injunction/TRO	<input type="checkbox"/> Railroad	<input type="checkbox"/> Asbestosis	<input type="checkbox"/> Dram shop	<input type="checkbox"/> Insurance bad faith	<input type="checkbox"/> Real estate	<input type="checkbox"/> Auto	<input type="checkbox"/> DTPA	<input type="checkbox"/> Malicious prosecution	<input type="checkbox"/> Securities fraud	<input type="checkbox"/> Bill of review	<input type="checkbox"/> Employment discharge	<input type="checkbox"/> Malpractice/Legal	<input type="checkbox"/> Sequestration	<input type="checkbox"/> Conspiracy	<input type="checkbox"/> Expunction	<input type="checkbox"/> Malpractice/Medical	<input type="checkbox"/> Silicone implant	<input type="checkbox"/> Contract	<input type="checkbox"/> False imprisonment	<input type="checkbox"/> Name change	<input type="checkbox"/> Tortious interference	<input type="checkbox"/> Deed restriction	<input type="checkbox"/> Foreclosure	<input type="checkbox"/> Note	<input type="checkbox"/> Trespass	<input type="checkbox"/> Declaratory judgment	<input type="checkbox"/> Forfeiture	<input type="checkbox"/> Premises liability	<input type="checkbox"/> Workers compensation	<input type="checkbox"/> Other _____			
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<p>Has this dispute previously been in the Harris County courts? <input type="checkbox"/> No <input type="checkbox"/> Yes, in the following court: _____</p>																																															
Monetary damages sought	<input type="checkbox"/> less than \$50,000	<input type="checkbox"/> 50,001 - \$100,000	<input type="checkbox"/> greater than \$100,000																																												
Estimated time needed for discovery	<input type="checkbox"/> 0-3 months	<input type="checkbox"/> 4-6 months	<input type="checkbox"/> 7-12 months																																												
Estimated time needed for trial:	<input type="checkbox"/> 1-2 days	<input type="checkbox"/> 3-5 days	<input type="checkbox"/> 6-10 days																																												
<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If yes, please state your estimate for total hours of deposition per side: _____ and the number of interrogatories needed for each party to serve on any other party: _____</p>																																															
<p>Name of party filing this cover sheet:</p>																																															
<p>Signature of attorney or pro se filing cover sheet: <u>Woolrow Epperson</u></p>																																															
<p>Name printed: <u>WOOLROW EPPERSON</u> Phone No: <u>713 973 6303</u> Bar No: <u>06637000</u></p>																																															
<p>FOR COURT USE ONLY:</p>																																															
Track assigned	<input type="checkbox"/> Track 1	<input type="checkbox"/> Track 2	<input type="checkbox"/> Track 3																																												
Court Coordinator	Date:																																														



I, Loren Jackson, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date
Witness my official hand and seal of office this _____

Certified Document Number: _____

LOREN JACKSON, DISTRICT CLERK
HARRIS COUNTY, TEXAS

In accordance with Texas Government Code 406.013 electronically transmitted authenticated documents are valid. If there is a question regarding the validity of this document and or seal please e-mail support@hcdistrictclerk.com

2009-77993

CIVIL PROCESS REQUEST

FOR EACH PARTY SERVED YOU MUST FURNISH ONE (1) COPY OF THE PLEADING
 FOR WRITS FURNISH TWO (2) COPIES OF THE PLEADING PER PARTY TO BE SERVED

CASE NUMBER: 2009-77993CURRENT COURT: 189th Judicial District Court

Court, Harris County, TX

TYPE OF INSTRUMENT TO BE SERVED (See Reverse For Types): Original Petition

FILE DATE OF MOTION:

Month/ Day/ Year

SERVICE TO BE ISSUED ON (Please List Exactly As The Name Appears In The Pleading To Be Served):

1. NAME: Dr. DAVID LACKEG, Commissioner, Dept. State Health Services
 ADDRESS: P.O. Box 149347, Austin TX 78714-9347
 AGENT. (if applicable): _____

TYPE OF SERVICE/PROCESS TO BE ISSUED (see reverse for specific type): _____

SERVICE BY (check one):

- ATTORNEY PICK-UP CONSTABLE
 CIVIL PROCESS SERVER - Authorized Person to Pick-up: _____ Phone: _____
 MAIL CERTIFIED MAIL
 PUBLICATION:
 Type of Publication: COURTHOUSE DOOR, or
 NEWSPAPER OF YOUR CHOICE: _____
 OTHER, explain _____

F I L E D

Loren Jackson
District Clerk

MAR 24 2010

2. NAME: _____

ADDRESS: _____

AGENT. (if applicable): _____

Time: _____

TYPE OF SERVICE/PROCESS TO BE ISSUED (see reverse for specific type): _____

By _____ Harris County, Texas

Deputy: _____

SERVICE BY (check one):

- ATTORNEY PICK-UP CONSTABLE
 CIVIL PROCESS SERVER - Authorized Person to Pick-up: _____ Phone: _____
 MAIL CERTIFIED MAIL
 PUBLICATION:
 Type of Publication: COURTHOUSE DOOR, or
 NEWSPAPER OF YOUR CHOICE: _____
 OTHER, explain _____

ATTORNEY (OR ATTORNEY'S AGENT) REQUESTING SERVICE:

NAME: Woodrow EPPERSON TEXAS BAR NO./ID NO. 06637000MAILING ADDRESS: 10565 Katy Fwy, Ste 250 Houston TX 77024PHONE NUMBER: 713 973-6303 FAX NUMBER: 713 973-1882
 area code phone number area code fax numberEMAIL ADDRESS: j.epper@068.aol.com



I, Loren Jackson, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date
Witness my official hand and seal of office this _____

Certified Document Number: _____

LOREN JACKSON, DISTRICT CLERK
HARRIS COUNTY, TEXAS

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FILED

Loren Jackson
District Clerk

MAR 24 2010

Time: Harris County, Texas
By Deputy

WOODROW EPPERSON

LAW OFFICE OF
WOODROW EPPERSON
10565 KATY FREEWAY, SUITE 250
HOUSTON, TEXAS 77024
713 973-6303
Fax 713 973-1882
jepper1068@aol.com

Licensed in Texas
Florida and Pennsylvania

RECEIVED
HARRIS COUNTY CLERK'S OFFICE
MARCH 24 2010
MAR 24 2010
LOREN JACKSON
DISTRICT CLERK
HARRIS COUNTY, TEXAS
FAX 713-973-1882
E-MAIL: jepper1068@aol.com
MAIL: 10565 Katy Freeway, Suite 250, Houston, TX 77024
PHONE: 713-973-6303

March 19, 2010

Loren Jackson
District Clerk
P. O. Box 4651
Houston, Texas 77210-4651

RE: Case no. 2009-77993, Griffin v. Texas Department of State Health Services, in the 189th Judicial District Court, Harris County, Texas)

Dear Mr. Jackson:

Enclosed are copies of plaintiff's original petition, earlier filed in above action. Please issue citation in this action and forward it to the constable for service by certified mail, return receipt requested.

The defendant should be served by serving Dr. David Lackey, Commissioner, Department State Health Services, P. O. Box 149347, Austin, TX 78714-9347, as shown on the attached civil process request form.

Enclosed is my firm check in the amount of \$73.00 for the issuance and service of citation fees.

Thank you for your attention to this matter.

Very truly yours,

Woodrow Epperson

Enclosures
cc: Client



I, Loren Jackson, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date
Witness my official hand and seal of office this _____

Certified Document Number: _____

LOREN JACKSON, DISTRICT CLERK
HARRIS COUNTY, TEXAS

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(2)

Case No. 200977993

GRiffin, ROSEMARY * IN THE DISTRICT COURT OF
 vs. * HARRIS COUNTY, TEXAS
 TEXAS DEPARTMENT OF STATE HEAL * 189th JUDICIAL DISTRICT


NOTICE OF INTENT TO DISMISS - NO ANSWER FILED

To All Counsel and Pro Se Parties:

Court records indicate that this case is eligible for dismissal for want of prosecution because no answer has been filed in this case. The case will be **DISMISSED FOR WANT OF PROSECUTION**, unless one of the following actions is taken by **05-28-2010**.

1. You file and have heard, by oral hearing or written submission, a meritorious motion for default judgment (addition instructions on the back); or,
2. An answer is filed; or,

If neither of the above has been done, then you must file a verified motion to retain, showing good cause to retain the case or diligence in prosecution to avoid dismissal, and appear at the oral hearing, to be held at the Harris County Civil Courthouse, 201 Caroline, Houston, Texas 77002, on **05-28-2010** at **08:30 AM**.

If you file a verified motion to retain, you must appear for the oral hearing unless otherwise advised. Failure to appear at the oral hearing will result in the case being **DISMISSED FOR WANT OF PROSECUTION**. If you have any questions regarding this notice, please contact the court coordinator, CATHY NORTON at (713) 368-6296.

Thank you for your prompt attention to this matter.

WILLIAM R BURKE JR
 Judge, 189TH DISTRICT COURT
 Generated on: 03/25/2010

WOODROW JR. EPPERSON
 10565 KATY FWY #250
 HOUSTON, TX 77024

6637000

NOTICE REGARDING NON-MILITARY AFFIDAVIT

If you file a Motion for Default Judgment, you must comply with the requirements of 50 U.S.C. App. §521, Section 201.

The requirements for the non-military affidavit are now more detailed.

You are required to state facts to support whatever you assert in the affidavit.

READ THE FEDERAL STATUTE.

A non-complying Motion for Default Judgment will not be granted and will not be sufficient to avoid dismissal for want of prosecution.



I, Loren Jackson, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date
Witness my official hand and seal of office this _____

Certified Document Number: _____

LOREN JACKSON, DISTRICT CLERK
HARRIS COUNTY, TEXAS

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RECEIPT NUMBER 2202 65.00
TRACKING NUMBER 72519631 CO1

CAUSE NUMBER 200977993

(3)

PLAINTIFF: GRIFFIN, ROSEMARY

vs.

DEFENDANT: TEXAS DEPARTMENT OF STATE HEALTH SYSTEM

In The 189th
Judicial District Court of
Harris County, Texas

CITATION CORPORATE

THE STATE OF TEXAS

County of Harris

TO: TEXAS DEPARTMENT OF STATE HEALTH SYSTEM BY SERVING DR. DAVID JACKY
 COMMISSIONER
 DEPARTMENT STATE HEALTH SERVICES
 P.O. BOX 149347 AUSTIN TX 787143947

FILED

Loren Jackson
District Clerk

APR 29 2010

Attached is a copy of PLAINTIFF'S ORIGINAL PETITION

This instrument was filed on the 8th day of December, 2009, in the above cited cause number and court. The instrument attached describes the claim against you.

YOU HAVE BEEN SUED; you may employ an attorney. If you or your attorney do not file a written answer with the District Clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of 20 days after you were served this citation and petition, a default judgment may be taken against you.

TO OFFICER SERVING:

This Citation was issued under my hand and seal of said Court, at Houston, Texas, this 30th day of March, 2010.



Issued at request of:
 EPPERSON, WOODROW JR.
 10565 KATY FWY #250
 HOUSTON, TX 77024
 Tel: (713) 973-6303
 Bar Number: 6637000

LOREN JACKSON, District Clerk
 Harris County, Texas
 201 Caroline, Houston, Texas 77002
 P.O. Box 4651, Houston, Texas 77210

Generated by: JOHNSON, CHARLETA MA YS9/YS9/8669

OFFICER/AUTHORIZED PERSON RETURN

I received this citation on the _____ day of _____, 20_____, at _____ o'clock ___.M., endorsed the date of delivery thereon, and executed it at _____, _____,

(street address)

(city)

in _____ County, Texas on the _____ day of _____, 20_____, at _____ o'clock ___. M., by delivering to _____, by delivering to its
 (the defendant corporation named in citation)

_____ in person, whose name is _____,
 (registered agent, president, or vice-president)

a true copy of this citation, with a copy of the _____ Petition attached,
 (description of petition, e.g., "Plaintiffs Original")

and with accompanying copies of _____
 (additional documents, if any, delivered with the petition)

I certify that the facts stated in this return are true by my signature below on the _____ day of _____, 20_____.
 FEE: \$ _____

By: _____
 (signature of officer)
 Printed Name: _____

As Deputy for: _____
 (printed name & title of sheriff or constable)
 Affiant Other Than Officer

On this day, _____, known to me to be the person whose signature appears on the foregoing return, personally appeared. After being by me duly sworn, he/she stated that this citation was executed by him/her in the exact manner recited on the return.

SWORN TO AND SUBSCRIBED BEFORE ME, on this _____ day of _____, 20_____.
 N.INT.CITC.P

Notary Public





Date Produced: 04/12/2010

HARRIS COUNTY CONSTABLE

The following is the delivery information for Certified Mail™ item number 7115 6364 5313 0005 1241. Our records indicate that this item was delivered on 04/09/2010 at 05:30 a.m. in AUSTIN, TX, 78714. The scanned image of the recipient information is provided below.

Signature of Recipient:


Benny Guerra
Benny Guerra

Address of Recipient:


H. G. Guerra

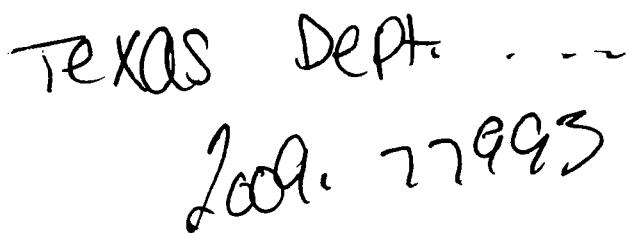
Thank you for selecting the Postal Service for your mailing needs. If you require additional assistance, please contact your local post office or Postal Service representative.

Sincerely,

United States Postal Service

The customer reference number shown below is not validated or endorsed by the United States Postal Service. It is solely for customer use.

Customer Reference Number: 30000000008872


TEXAS Dept. 2001 27993



JACK F. ABERCIA, CONSTABLE
PRECINCT NUMBER ONE
HARRIS COUNTY, TEXAS

MAIN OFFICE
P.O. BOX 52578
HOUSTON, TEXAS 77052-2578
(713) 755-5200 FAX (713) 755-8951

ANNEX OFFICE
7300 NORTH SHEPHERD
HOUSTON, TEXAS 77091
(713) 697-3600 FAX (713) 697-3649

OFFICER'S RETURN FOR CERTIFIED MAIL

Received this CITATION, case #200977993 on the 7TH day of APRIL 2010 at 3:45 P.M. Executed at P O BOX 149347 AUSTIN TX 78714 by mailing to the within name TEXAS DEPT. OF STATE HEALTH SYSTEM BY SERVING DR DAVID LACKEY COMMISSION DEPT. STATE HEALTH SERVICES AND by delivering to BENNY GUERRA on the 9TH day of APRIL 2010 BY REGISTERED/CERTIFIED MAIL WITH DELIVERY RESTRICTED TO ADDRESSEE ONLY, a true copy of this citation together with a copy of PLAINTIFF'S ORIGINAL PETITION

FEE : \$65.00

JACK F. ABERCIA, CONSTABLE
PCT #1, HARRIS COUNTY TX

DEPUTY: D. Martinez ASARZ



I, Loren Jackson, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date
Witness my official hand and seal of office this _____

Certified Document Number: _____

LOREN JACKSON, DISTRICT CLERK
HARRIS COUNTY, TEXAS

In accordance with Texas Government Code 406.013 electronically transmitted authenticated documents are valid. If there is a question regarding the validity of this document and or seal please e-mail support@hcdistrictclerk.com

CAUSE NO. 2009-77993

ROSEMARY GRIFFIN, <i>Plaintiff,</i>	§ § § § § § § §	IN THE DISTRICT COURT
v.		§ § § § § § § §
TEXAS DEPARTMENT OF STATE HEALTH SYSTEM, <i>Defendant.</i>	§ § § § § § § §	189th JUDICIAL DISTRICT HARRIS COUNTY, TEXAS

DEFENDANT'S ORIGINAL ANSWER AND AFFIRMATIVE DEFENSES

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES Defendant Texas Department of State Health Services¹ (“TDSHS”), and files its *Original Answer and Affirmative Defenses*, and in support thereof, would show the Court the following:

I. ORIGINAL ANSWER (General Denial)

Pursuant to Rule 92 of the Texas Rules of Civil Procedure, TDSHS generally denies the allegations in Plaintiff's Original Petition and demands strict proof thereof.

II. AFFIRMATIVE DEFENSES

Pleading further, TDSHS hereby asserts the following affirmative defenses to which it may be entitled:

1. Sovereign immunity bars any and all of Plaintiff's claims to which that defense may apply.
2. Plaintiff's claims, in whole or in part, are time barred by the applicable statute of

¹ Defendant is incorrectly named as Texas Department of State Health System.

limitations period.

3. Plaintiff's claims, in whole or in part, are barred by Plaintiff's failure to exhaust her administrative remedies.

4. Any employment decisions challenged by Plaintiff were made for legitimate, non-discriminatory, non-retaliatory reasons, and these decisions would have been made regardless of any protected activity claimed by Plaintiff.

5. At all relevant times, TDSHS took reasonable steps to prevent and promptly correct any harassment in the workplace, and Plaintiff unreasonably failed to take advantage of TDSHS's preventive or corrective measures.

6. Plaintiff's own acts and/or omissions caused or contributed to the Plaintiff's injuries, if any.

7. Plaintiff has failed to mitigate her damages, if any.

8. The compensatory and other damages provided for in Texas Labor Code section 21.2585, if any, are subject to the damages cap set forth therein.

9. Plaintiff is not entitled to exemplary damages pursuant to Texas Labor Code section 21.2585(b), or any other statute or law.

10. TDSHS reserves the right to raise additional affirmative defenses as they become apparent during the development of the case.

IV. PRAYER

WHEREFORE, PREMISES CONSIDERED, Defendant TDSHS respectfully requests that the Court enter judgment for it and against Plaintiff, holding that Plaintiff take nothing by her action and award TDSHS such further relief to which it is entitled, including costs and attorney's fees.

Dated: April 30, 2010

Respectfully submitted,

GREG ABBOTT
Attorney General of Texas

C. ANDREW WEBER
First Assistant Attorney General

DAVID S. MORALES
Deputy Attorney General for Civil Litigation

ROBERT B. O'KEEFE
Chief, General Litigation Division

/s/ Darren G. Gibson
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HEALTH SERVICES**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of Defendant's Original Answer and Affirmative Defenses has been sent *via U.S. Certified Mail, Return Receipt Requested* on April 30, 2010, to:

Woodrow Epperson
10565 Katy Freeway
Suite 250
Houston, Texas 77024
Attorney for Plaintiff

/s/ Darren G. Gibson
DARREN G. GIBSON
Assistant Attorney General



I, Loren Jackson, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date
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